

By: Ellis

S.B. No. 1048

A BILL TO BE ENTITLED

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AN ACT

relating to the abolition of the Public Utility Commission of Texas and the Railroad Commission of Texas, the creation of the Texas Energy and Communications Commission, and the transfer of the powers and duties of the public utility commission and the railroad commission to the energy and communications commission and other state agencies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. TEXAS ENERGY AND COMMUNICATIONS COMMISSION

SECTION 1.01. CREATION OF TEXAS ENERGY AND COMMUNICATIONS COMMISSION. The Utilities Code is amended by adding Title 6 to read as follows:

TITLE 6. REGULATION OF CERTAIN ACTIVITIES FORMERLY REGULATED BY  
PUBLIC UTILITY COMMISSION OF TEXAS AND RAILROAD  
COMMISSION OF TEXAS

CHAPTER 301. TEXAS ENERGY AND COMMUNICATIONS COMMISSION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 301.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Energy and  
Communications Commission.

(2) "Commissioner" means a member of the commission's  
governing body.

(3) "Executive director" means the executive director  
of the commission.

1       Sec. 301.002. AGENCY. The commission is an agency of the  
2 state.

3       Sec. 301.003. SUNSET PROVISION. The Texas Energy and  
4 Communications Commission is subject to Chapter 325, Government  
5 Code (Texas Sunset Act). Unless continued in existence as provided  
6 by that chapter, the commission is abolished and this chapter  
7 expires September 1, 2017.

8           [Sections 301.004-301.050 reserved for expansion]

9                           SUBCHAPTER B. COMMISSION

10       Sec. 301.051. ELECTION OF MEMBERS; TERMS. (a) The  
11 commission is composed of three commissioners.

12       (b) Commissioners are elected for staggered four-year  
13 terms, with one or two members being elected at each general  
14 election for state and county officers. Members are elected at  
15 large using the place system.

16       Sec. 301.052. QUALIFICATIONS. To be elected a  
17 commissioner, a person must be:

18                   (1) a qualified voter; and

19                   (2) at least 25 years of age.

20       Sec. 301.053. CONFLICTS OF INTEREST. (a) In this section,  
21 "Texas trade association" means a cooperative and voluntarily  
22 joined statewide association of business or professional  
23 competitors in this state designed to assist its members and its  
24 industry or profession in dealing with mutual business or  
25 professional problems and in promoting their common interest.

26       (b) A person may not be a commissioner and may not be a  
27 commission employee employed in a "bona fide executive,

1 administrative, or professional capacity," as that phrase is used  
2 for purposes of establishing an exemption to the overtime  
3 provisions of the federal Fair Labor Standards Act of 1938 (29  
4 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

5 (1) the person is an officer, employee, or paid  
6 consultant of a Texas trade association in a field regulated by the  
7 commission; or

8 (2) the person's spouse is an officer, manager, or paid  
9 consultant of a Texas trade association in a field regulated by the  
10 commission.

11 (c) A person may not be a commissioner or act as the general  
12 counsel to the commission if the person is required to register as a  
13 lobbyist under Chapter 305, Government Code, because of the  
14 person's activities for compensation on behalf of a profession  
15 related to the operation of the commission.

16 Sec. 301.054. TRAINING PROGRAM FOR COMMISSIONERS. (a) A  
17 person who is elected to and qualifies for office as a commissioner  
18 may not vote, deliberate, or be counted as a commissioner in  
19 attendance at a meeting of the commission until the person  
20 completes a training program that complies with this section.

21 (b) The training program must provide the person with  
22 information regarding:

23 (1) the legislation that created the commission;  
24 (2) the programs operated by the commission;  
25 (3) the role and functions of the commission;  
26 (4) the rules of the commission, with an emphasis on  
27 the rules that relate to disciplinary and investigatory authority;

1           (5) the current budget for the commission;

2           (6) the results of the most recent formal audit of the  
3 commission;

4           (7) the requirements of:

5                 (A) the open meetings law, Chapter 551,  
6 Government Code;

7                 (B) the public information law, Chapter 552,  
8 Government Code;

9                 (C) the administrative procedure law, Chapter  
10 2001, Government Code; and

11                 (D) other laws relating to public officials,  
12 including conflict-of-interest laws; and

13           (8) any applicable ethics policies adopted by the  
14 commission or the Texas Ethics Commission.

15           (c) A person elected to the commission is entitled to  
16 reimbursement, as provided by the General Appropriations Act, for  
17 the travel expenses incurred in attending the training program  
18 regardless of whether the attendance at the program occurs before  
19 or after the person qualifies for office.

20           Sec. 301.055. REIMBURSEMENT FOR EXPENSES. A commissioner  
21 is entitled to reimbursement for actual and necessary expenses  
22 incurred in discharging the member's duties as a commissioner,  
23 subject to any applicable limitation on reimbursement provided by  
24 the General Appropriations Act.

25           Sec. 301.056. PRESIDING OFFICER; MEETINGS. (a) The  
26 governor shall designate a commissioner as the presiding officer of  
27 the commission to serve in that capacity at the pleasure of the

1 governor.

2 (b) The commission shall meet quarterly and at other times  
3 at the call of the presiding officer when necessary to transact  
4 commission business. The commission shall hold meetings in  
5 different areas of the state.

6 Sec. 301.057. ADVISORY COMMITTEES. The commission may  
7 appoint advisory committees to assist it in administering this  
8 chapter.

9 [Sections 301.058-301.100 reserved for expansion]

10 SUBCHAPTER C. EXECUTIVE DIRECTOR AND OTHER COMMISSION PERSONNEL

11 Sec. 301.101. EXECUTIVE DIRECTOR. (a) The commission  
12 shall appoint an executive director, who is to be selected  
13 according to education, training, experience, and demonstrated  
14 ability.

15 (b) The executive director serves at the pleasure of the  
16 commission.

17 (c) The executive director shall act as the commission's  
18 secretary and the commission's chief administrative officer.

19 Sec. 301.102. PERSONNEL. (a) The commission may employ,  
20 compensate, and prescribe the duties of personnel, other than  
21 members of advisory committees, necessary and suitable to  
22 administer this chapter.

23 (b) The executive director shall prepare and the commission  
24 by rule shall adopt personnel standards.

25 (c) A personnel position may be filled only by an individual  
26 selected and appointed on a nonpartisan merit basis.

27 (d) The commission shall develop and implement policies

1 that clearly define the respective responsibilities of the  
2 commission and the staff of the commission.

3 Sec. 301.103. POLICY-MAKING AND MANAGEMENT  
4 RESPONSIBILITIES. The commission shall develop and implement  
5 policies that clearly separate the policy-making responsibilities  
6 of the executive director and the staff of the commission.

7 Sec. 301.104. INFORMATION ABOUT QUALIFICATIONS AND  
8 STANDARDS OF CONDUCT. The executive director or the executive  
9 director's designee shall provide to commissioners and to  
10 commission employees, as often as necessary, information regarding  
11 the requirements for office or employment under this chapter,  
12 including information regarding a person's responsibilities under  
13 applicable laws relating to standards of conduct for state officers  
14 or employees.

15 Sec. 301.105. MERIT PAY. The executive director or the  
16 executive director's designee shall develop a system of annual  
17 performance evaluations. All merit pay for commission employees  
18 must be given under the system established under this section.

19 Sec. 301.106. CAREER LADDER. The executive director or the  
20 executive director's designee shall develop an intra-agency career  
21 ladder program. The program must require intra-agency postings of  
22 all nonentry-level positions concurrently with any public posting.

23 Sec. 301.107. EQUAL EMPLOYMENT OPPORTUNITY POLICY.  
24 (a) The executive director or the executive director's designee  
25 shall prepare and maintain a written policy statement that  
26 implements a program of equal employment opportunity to ensure that  
27 all personnel decisions are made without regard to race, color,

1 disability, sex, religion, age, or national origin.

2 (b) The policy statement must include:

3 (1) personnel policies, including policies relating  
4 to recruitment, evaluation, selection, training, and promotion of  
5 personnel, that show the intent of the commission to avoid the  
6 unlawful employment practices described by Chapter 21, Labor Code;  
7 and

8 (2) an analysis of the extent to which the composition  
9 of the commission's personnel is in accordance with state and  
10 federal law and a description of reasonable methods to achieve  
11 compliance with state and federal law.

12 (c) The policy statement must:

13 (1) be updated annually;

14 (2) be reviewed by the state Commission on Human  
15 Rights for compliance with Subsection (b)(1); and

16 (3) be filed with the governor's office.

17 Sec. 301.108. STATE EMPLOYEE INCENTIVE PROGRAM. The  
18 executive director or the executive director's designee shall  
19 provide to commission employees information and training on the  
20 benefits and methods of participation in the state employee  
21 incentive program.

22 [Sections 301.109-301.150 reserved for expansion]

23 SUBCHAPTER D. POWERS AND DUTIES

24 Sec. 301.151. GENERAL POWERS AND DUTIES OF COMMISSION. As  
25 provided by other law, the commission is responsible for the  
26 regulation of:

27 (1) electric, telecommunications, and gas utilities;

- 1           (2) oil and gas exploration and production;
- 2           (3) gas transportation and use;
- 3           (4) hazardous liquid and carbon dioxide pipelines;
- 4           (5) common carriers, public utilities, and common  
5 purchasers;
- 6           (6) used oil field equipment dealers;
- 7           (7) oil tanker vehicles;
- 8           (8) certain transporters of oil or petroleum products;
- 9 and
- 10          (9) pipeline assessment and testing.

11          Sec. 301.152. RULES. The commission may adopt rules  
12 reasonably necessary to administer this chapter.

13          Sec. 301.153. NEGOTIATED RULEMAKING AND ALTERNATIVE  
14 DISPUTE RESOLUTION PROCEDURES. (a) The commission shall develop  
15 and implement a policy to encourage the use of:

- 16           (1) negotiated rulemaking procedures under Chapter  
17 2008, Government Code, for the adoption of commission rules; and
- 18           (2) appropriate alternative dispute resolution  
19 procedures under Chapter 2009, Government Code, to assist in the  
20 resolution of internal and external disputes under the commission's  
21 jurisdiction.

22          (b) The commission's procedures relating to alternative  
23 dispute resolution must conform, to the extent possible, to any  
24 model guidelines issued by the State Office of Administrative  
25 Hearings for the use of alternative dispute resolution by state  
26 agencies.

27          (c) The commission shall designate a trained person to:

1           (1) coordinate the implementation of the policy  
2 adopted under Subsection (a);

3           (2) serve as a resource for any training needed to  
4 implement the procedures for negotiated rulemaking or alternative  
5 dispute resolution; and

6           (3) collect data concerning the effectiveness of those  
7 procedures, as implemented by the commission.

8           Sec. 301.154. USE OF TECHNOLOGY. The commission shall  
9 develop and implement a policy requiring the commission and  
10 commission employees to research and propose appropriate  
11 technological solutions to improve the commission's ability to  
12 perform its functions. The technological solutions must:

13           (1) ensure that persons who want to use the  
14 commission's services are able to:

15                   (A) interact with the commission through the  
16 Internet; and

17                   (B) access any service that can be provided  
18 effectively through the Internet; and

19           (2) be cost-effective and developed through the  
20 commission's planning processes.

21           Sec. 301.155. ANNUAL REPORT. (a) The commission shall  
22 file annually with the governor and the presiding officer of each  
23 house of the legislature a complete and detailed written report  
24 accounting for all funds received and disbursed by the commission  
25 during the preceding fiscal year.

26           (b) The annual report must be in the form and be reported in  
27 the time provided by the General Appropriations Act.

1       Sec. 301.156. OFFICES. The commission shall maintain its  
2 central office in Austin. The commission may maintain offices in  
3 other areas of the state as necessary.

4           [Sections 301.157-301.200 reserved for expansion]

5       SUBCHAPTER E. PUBLIC INTEREST INFORMATION AND COMPLAINT

6                   PROCEDURES

7       Sec. 301.201. PUBLIC INTEREST INFORMATION AND COMPLAINTS.

8       (a) The commission shall prepare information of public interest  
9 describing the functions of the commission and the commission's  
10 procedures by which complaints are filed with and resolved by the  
11 commission. The commission shall make the information available to  
12 the public and appropriate state governmental entities.

13       (b) The commission by rule shall establish methods by which  
14 consumers and service recipients are notified of the name, mailing  
15 address, and telephone number of the commission for directing  
16 complaints to the commission.

17       Sec. 301.202. PUBLIC ACCESS AND TESTIMONY. The commission  
18 shall develop and implement policies that provide the public with a  
19 reasonable opportunity to appear before the commission and to speak  
20 on any issue under the jurisdiction of the commission.

21       Sec. 301.203. INFORMATION REGARDING COMPLAINTS. (a) The  
22 commission shall maintain a file on each written complaint filed  
23 with the commission. The file must include:

- 24           (1) the name of the person who filed the complaint;  
25           (2) the date the complaint is received by the  
26 commission;  
27           (3) the subject matter of the complaint;

1           (4) the name of each person contacted in relation to  
2 the complaint;

3           (5) a summary of the results of the review or  
4 investigation of the complaint; and

5           (6) an explanation of the reason the file was closed,  
6 if the commission closed the file without taking action other than  
7 to investigate the complaint.

8           (b) The commission shall provide to the person filing the  
9 complaint and to each person who is a subject of the complaint a  
10 copy of the commission's policies and procedures relating to  
11 complaint investigation and resolution.

12           (c) The commission, at least quarterly until final  
13 disposition of the complaint, shall notify the person filing the  
14 complaint and each person who is a subject of the complaint of the  
15 status of the investigation unless the notice would jeopardize an  
16 undercover investigation.

17           SECTION 1.02. INITIAL ELECTION OF TEXAS ENERGY AND  
18 COMMUNICATIONS COMMISSION COMMISSIONERS. (a) On September 1,  
19 2003, the Texas Energy and Communications Commission is created.

20           (b) The offices of the commissioners of the Texas Energy and  
21 Communications Commission exist for purposes of the primary and  
22 general elections in 2004.

23           (c) The initial commissioners of the Texas Energy and  
24 Communications Commission shall be elected at the general election  
25 for state and county officers in 2004. The initial commissioners  
26 elected shall draw lots so that one member serves a two-year term  
27 and two members serve four-year terms.

1 (d) The initial commissioners of the Texas Energy and  
2 Communications Commission shall take office January 1, 2005.

3 ARTICLE 2. INTERAGENCY TRANSFERS OF PROPERTY, RECORDS,  
4 OBLIGATIONS, FUNDS, FUNCTIONS, PROGRAMS, AND ACTIVITIES

5 SECTION 2.01. TRANSFERS TO TEXAS ENERGY AND COMMUNICATIONS  
6 COMMISSION. (a) On January 1, 2005, the following powers, duties,  
7 functions, programs, and activities are transferred to the Texas  
8 Energy and Communications Commission created under Chapter 301,  
9 Utilities Code, as added by this Act:

10 (1) all powers, duties, functions, programs, and  
11 activities of the Public Utility Commission of Texas;

12 (2) the following powers, duties, functions,  
13 programs, and activities of the Railroad Commission of Texas:

14 (A) except as provided by Section 2.02 of this  
15 Act, the regulation of oil and gas exploration and production under  
16 Subtitles B and C, Title 3, Natural Resources Code;

17 (B) the regulation of gas utilities under  
18 Subtitle A, Title 3, Utilities Code;

19 (C) the regulation of gas transportation and use  
20 under Subtitle B, Title 3, Utilities Code;

21 (D) the regulation of hazardous liquid and carbon  
22 dioxide pipelines under Chapter 117, Natural Resources Code;

23 (E) the regulation of common carriers, public  
24 utilities, and common purchasers under Chapter 111, Natural  
25 Resources Code;

26 (F) the regulation of used oil field equipment  
27 dealers under Chapter 112, Natural Resources Code;

1 (G) the regulation of oil tanker vehicles under  
2 Chapter 114, Natural Resources Code;

3 (H) the regulation of certain transporters of oil  
4 or petroleum products under Chapter 115, Natural Resources Code;

5 (I) the regulation of pipeline assessment and  
6 testing under Chapter 118, Natural Resources Code; and

7 (J) any other power, duty, function, program, or  
8 activity of the commission other than a power, duty, function,  
9 program, or activity of the commission transferred to another state  
10 agency under another provision of this article.

11 (b) On the date specified by Subsection (a) of this section:

12 (1) all obligations and contracts of the Public  
13 Utility Commission of Texas or the Railroad Commission of Texas  
14 that are related to a power, duty, function, program, or activity  
15 transferred under Subsection (a) of this section are transferred to  
16 the Texas Energy and Communications Commission;

17 (2) all property and records in the custody of the  
18 Public Utility Commission of Texas or the Railroad Commission of  
19 Texas that are related to a power, duty, function, program, or  
20 activity transferred under Subsection (a) of this section and all  
21 funds appropriated by the legislature for the power, duty,  
22 function, program, or activity shall be transferred to the Texas  
23 Energy and Communications Commission; and

24 (3) all complaints, investigations, or contested  
25 cases that are pending before the Public Utility Commission of  
26 Texas or the Railroad Commission of Texas, or the governing body of  
27 the Public Utility Commission of Texas or the Railroad Commission

1 of Texas, and that are related to a power, duty, function, program,  
2 or activity transferred under Subsection (a) of this section are  
3 transferred without change in status to the Texas Energy and  
4 Communications Commission.

5 (c) A rule or form adopted by the Public Utility Commission  
6 of Texas or the Railroad Commission of Texas that relates to a  
7 power, duty, function, program, or activity transferred under  
8 Subsection (a) of this section is a rule or form of the Texas Energy  
9 and Communications Commission and remains in effect until altered  
10 by that commission.

11 (d) A reference in law to the Public Utility Commission of  
12 Texas or the Railroad Commission of Texas, or to the governing body  
13 of the Public Utility Commission of Texas or the Railroad  
14 Commission of Texas, that relates to a power, duty, function,  
15 program, or activity transferred under Subsection (a) of this  
16 section means the Texas Energy and Communications Commission.

17 (e) A license, permit, or certification in effect that was  
18 issued by the Public Utility Commission of Texas or the Railroad  
19 Commission of Texas and that relates to a power, duty, function,  
20 program, or activity transferred under Subsection (a) of this  
21 section is continued in effect as a license, permit, or  
22 certification of the Texas Energy and Communications Commission.

23 SECTION 2.02. TRANSFERS TO TEXAS COMMISSION ON  
24 ENVIRONMENTAL QUALITY. (a) On January 1, 2005, the following  
25 powers, duties, functions, programs, and activities of the Railroad  
26 Commission of Texas are transferred to the Texas Commission on  
27 Environmental Quality:

1           (1) the regulation of uranium surface mining and  
2 reclamation under Chapter 131, Natural Resources Code;

3           (2) the regulation of surface coal mining and  
4 reclamation under Chapter 134, Natural Resources Code;

5           (3) the prevention of pollution of surface and  
6 subsurface waters in the state by activities associated with the  
7 exploration, development, or production of oil, gas, or geothermal  
8 resources, including the transportation of oil or gas by pipeline,  
9 under Chapter 40, Natural Resources Code, Section 91.101, Natural  
10 Resources Code, and Section 26.131, Water Code; and

11           (4) the plugging of abandoned oil and gas wells under  
12 Chapter 89, Natural Resources Code.

13           (b) On the date specified by Subsection (a) of this section:

14           (1) all obligations and contracts of the Railroad  
15 Commission of Texas that are related to a power, duty, function,  
16 program, or activity transferred under Subsection (a) of this  
17 section are transferred to the Texas Commission on Environmental  
18 Quality;

19           (2) all property and records in the custody of the  
20 Railroad Commission of Texas that are related to a power, duty,  
21 function, program, or activity transferred under Subsection (a) of  
22 this section and all funds appropriated by the legislature for the  
23 power, duty, function, program, or activity shall be transferred to  
24 the Texas Commission on Environmental Quality; and

25           (3) all complaints, investigations, or contested  
26 cases that are pending before the Railroad Commission of Texas, or  
27 the governing body of the Railroad Commission of Texas, and that are

1 related to a power, duty, function, program, or activity  
2 transferred under Subsection (a) of this section are transferred  
3 without change in status to the Texas Commission on Environmental  
4 Quality.

5 (c) A rule or form adopted by the Railroad Commission of  
6 Texas that relates to a power, duty, function, program, or activity  
7 transferred under Subsection (a) of this section is a rule or form  
8 of the Texas Commission on Environmental Quality and remains in  
9 effect until altered by that commission.

10 (d) A reference in law to the Railroad Commission of Texas,  
11 or to the governing body of the Railroad Commission of Texas, that  
12 relates to a power, duty, function, program, or activity  
13 transferred under Subsection (a) of this section means the Texas  
14 Commission on Environmental Quality.

15 (e) A license, permit, or certification in effect that was  
16 issued by the Railroad Commission of Texas and that relates to a  
17 power, duty, function, program, or activity transferred under  
18 Subsection (a) of this section is continued in effect as a license,  
19 permit, or certification of the Texas Commission on Environmental  
20 Quality.

21 SECTION 2.03. TRANSFERS TO GENERAL LAND OFFICE. (a) On  
22 January 1, 2005, the following powers, duties, functions, programs,  
23 and activities of the Railroad Commission of Texas are transferred  
24 to the General Land Office:

25 (1) the regulation of the liquefied petroleum gas  
26 industry under Chapter 113, Natural Resources Code;

27 (2) the regulation of the compressed natural gas and

1 liquefied natural gas industries under Chapter 116, Natural  
2 Resources Code;

3 (3) alternative fuels research and education under  
4 Subchapter I, Chapter 113, Natural Resources Code;

5 (4) acting as on-scene coordinator for the abatement,  
6 containment, removal, and cleanup of unauthorized discharges in  
7 coastal waters of 240 barrels or less of oil from activities  
8 associated with the exploration, development, or production of oil  
9 or gas, including the transportation of oil or gas by pipeline,  
10 under Section 40.053(b), Natural Resources Code; and

11 (5) the regulation of the exploration, development,  
12 and production of geothermal energy and associated resources under  
13 Chapter 141, Natural Resources Code.

14 (b) On the date specified by Subsection (a) of this section:

15 (1) all obligations and contracts of the Railroad  
16 Commission of Texas that are related to a power, duty, function,  
17 program, or activity transferred under Subsection (a) of this  
18 section are transferred to the General Land Office;

19 (2) all property and records in the custody of the  
20 Railroad Commission of Texas that are related to a power, duty,  
21 function, program, or activity transferred under Subsection (a) of  
22 this section and all funds appropriated by the legislature for the  
23 power, duty, function, program, or activity shall be transferred to  
24 the General Land Office; and

25 (3) all complaints, investigations, or contested  
26 cases that are pending before the Railroad Commission of Texas, or  
27 the governing body of the Railroad Commission of Texas, and that are

1 related to a power, duty, function, program, or activity  
2 transferred under Subsection (a) of this section are transferred  
3 without change in status to the General Land Office.

4 (c) A rule or form adopted by the Railroad Commission of  
5 Texas that relates to a power, duty, function, program, or activity  
6 transferred under Subsection (a) of this section is a rule or form  
7 of the General Land Office and remains in effect until altered by  
8 the office.

9 (d) A reference in law to the Railroad Commission of Texas,  
10 or to the governing body of the Railroad Commission of Texas, that  
11 relates to a power, duty, function, program, or activity  
12 transferred under Subsection (a) of this section means the General  
13 Land Office.

14 (e) A license, permit, or certification in effect that was  
15 issued by the Railroad Commission of Texas and that relates to a  
16 power, duty, function, program, or activity transferred under  
17 Subsection (a) of this section is continued in effect as a license,  
18 permit, or certification of the General Land Office.

19 SECTION 2.04. TRANSFERS TO TEXAS DEPARTMENT OF  
20 TRANSPORTATION. (a) On January 1, 2005, the following powers,  
21 duties, functions, programs, and activities of the Railroad  
22 Commission of Texas are transferred to the Texas Department of  
23 Transportation:

24 (1) the regulation of railroad safety under Title 112,  
25 Revised Statutes; and

26 (2) the regulation of aggregate quarry and pit safety  
27 under Chapter 133, Natural Resources Code.

1 (b) On the date specified by Subsection (a) of this section:

2 (1) all obligations and contracts of the Railroad  
3 Commission of Texas that are related to a power, duty, function,  
4 program, or activity transferred under Subsection (a) of this  
5 section are transferred to the Texas Department of Transportation;

6 (2) all property and records in the custody of the  
7 Railroad Commission of Texas that are related to a power, duty,  
8 function, program, or activity transferred under Subsection (a) of  
9 this section and all funds appropriated by the legislature for the  
10 power, duty, function, program, or activity shall be transferred to  
11 the Texas Department of Transportation; and

12 (3) all complaints, investigations, or contested  
13 cases that are pending before the Railroad Commission of Texas, or  
14 the governing body of the Railroad Commission of Texas, and that are  
15 related to a power, duty, function, program, or activity  
16 transferred under Subsection (a) of this section are transferred  
17 without change in status to the Texas Department of Transportation.

18 (c) A rule or form adopted by the Railroad Commission of  
19 Texas that relates to a power, duty, function, program, or activity  
20 transferred under Subsection (a) of this section is a rule or form  
21 of the Texas Department of Transportation and remains in effect  
22 until altered by the department.

23 (d) A reference in law to the Railroad Commission of Texas,  
24 or to the governing body of the Railroad Commission of Texas, that  
25 relates to a power, duty, function, program, or activity  
26 transferred under Subsection (a) of this section means the Texas  
27 Department of Transportation.

1           (e) A license, permit, or certification in effect that was  
2 issued by the Railroad Commission of Texas and that relates to a  
3 power, duty, function, program, or activity transferred under  
4 Subsection (a) of this section is continued in effect as a license,  
5 permit, or certification of the Texas Department of Transportation.

6           SECTION 2.05. FACILITATION OF TRANSFERS. To facilitate the  
7 transfer of powers, duties, functions, programs, and activities of  
8 the Public Utility Commission of Texas and the Railroad Commission  
9 of Texas to the Texas Energy and Communications Commission and  
10 other agencies as provided by this article with a minimal negative  
11 effect on the performance of those powers, duties, functions,  
12 programs, and activities, each agency to which a power, duty,  
13 function, program, or activity is transferred under this article  
14 shall:

15                 (1) for each power, duty, function, program, or  
16 activity transferred under this article, determine:

17                         (A) the relevant agency actions that constitute  
18 the power, duty, function, program, or activity;

19                         (B) the pertinent records and property used by  
20 the Public Utility Commission of Texas or the Railroad Commission  
21 of Texas for the power, duty, function, program, or activity;

22                         (C) each state agency employee whose primary  
23 duties involve the power, duty, function, program, or activity and  
24 whether:

25                                 (i) the employee becomes an employee of the  
26 agency, to be assigned duties by the executive director of the  
27 agency;

1 (ii) the employee must reapply with the  
2 agency for a comparable employment position; or

3 (iii) the employment position will be  
4 eliminated; and

5 (D) the funds and obligations that are related to  
6 the power, duty, function, program, or activity; and

7 (2) oversee and assist the Public Utility Commission  
8 of Texas or the Railroad Commission of Texas in transferring the  
9 powers, duties, functions, programs, activities, records,  
10 property, funds, obligations, and employees in accordance with this  
11 article.

12 SECTION 2.06. APPLICABILITY OF FORMER LAW. An action  
13 brought or proceeding commenced before the effective date of a  
14 transfer prescribed by this article, including a contested case or  
15 a remand of an action or proceeding by a reviewing court, is  
16 governed by the laws and rules applicable to the action or  
17 proceeding before the transfer.

18 ARTICLE 3. MISCELLANEOUS PROVISIONS

19 SECTION 3.01. ABOLITION OF STATE AGENCIES. (a) On January  
20 1, 2005, the Public Utility Commission of Texas and the Railroad  
21 Commission of Texas are abolished.

22 (b) The abolition of a state agency listed in Subsection (a)  
23 of this section and the transfer of its powers, duties, functions,  
24 programs, activities, obligations, rights, contracts, records,  
25 property, funds, and employees as provided by this Act do not affect  
26 or impair an act done, any obligation, right, order, permit,  
27 certificate, rule, criterion, standard, or requirement existing,

1 or any penalty accrued under former law, and that law remains in  
2 effect for any action concerning those matters.

3 SECTION 3.02. EFFECTIVE DATE. Except as otherwise provided  
4 by this Act, this Act takes effect September 1, 2003.